

# HOUSE BILL REPORT

## SHB 1239

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### As Passed Legislature

**Title:** An act relating to parenting plans and residential schedules in dependency proceedings.

**Brief Description:** Addressing parenting plans and residential schedules in dependency proceedings.

**Sponsors:** House Committee on Early Learning & Children's Services (originally sponsored by Representatives Kagi, Walsh, Goodman, Haler, Roberts, Appleton, Moeller and Kenney).

#### **Brief History:**

##### **Committee Activity:**

Early Learning & Children's Services: 1/27/09, 2/19/09 [DPS].

##### **Floor Activity:**

Passed House: 3/4/09, 95-0.

Senate Amended.

Passed Senate: 4/9/09, 47-0.

House Refuses to Concur.

Senate Amended.

Passed Senate: 4/22/09, 46-0.

House Concurred.

Passed House: 4/24/09, 94-0.

Passed Legislature.

#### **Brief Summary of Substitute Bill**

- Broadens the authority of the juvenile court to hear matters relating to establishing parentage/paternity for a child when necessary to enter or modify a parenting plan for a child in a dependency action.
- Authorizes the juvenile court to also hear and decide matters in dispute between parents for the establishment or modification of a parenting plan for a child in a dependency action.
- Establishes a process for a parent who does not agree to the juvenile court hearing and deciding parenting plan matters to petition for transfer of the case to the family court.

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- Requires the juvenile court to follow the same procedural requirements applicable to the establishment or modification of parenting plans in the family court.
- Authorizes the juvenile court to appoint a guardian ad litem or an attorney for a child whose parenting plan is at issue in a dependency case consistent with the authority of the family court to appoint the same for children whose parenting plans are being entered or modified by the family court.

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## HOUSE COMMITTEE ON EARLY LEARNING & CHILDREN'S SERVICES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Kagi, Chair; Roberts, Vice Chair; Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Angel, Goodman and Seaquist.

**Staff:** Sydney Forrester (786-7120)

### **Background:**

Children's dependency cases are initiated in the juvenile division of the superior court because Washington's juvenile courts have exclusive original jurisdiction over dependency matters. When the permanency plan for a dependent child calls for a third-party custody arrangement, the juvenile court may hear and decide such matters when:

1. the child's parent(s) and the third party agree to the order; and
2. the juvenile court finds the order is in the child's best interests and approves the order.

When the permanency plan for a dependent child calls for reunification with only one of the child's parents, or when implementation of the permanent plan requires the entry or modification of a parenting plan, the child's parents must file and pursue a separate action in the family court because the juvenile court does not have authority to hear parenting plan cases. Waiting for the finalization of the parenting plan case through the family court may result in delaying permanency for the child if entry or modification of the parenting plan is necessary and sufficient for dismissal of the dependency.

### **Summary of Substitute Bill:**

The juvenile court overseeing a child dependency case may also hear and decide matters to establish or modify a permanent parenting plan in order to implement a permanent plan of care for the child and dismiss the dependency. The juvenile court's authority over parenting plan matters is subject to the following:

1. The court must make a written finding that the parenting plan is in the child's best interests.
2. Matters relating to child support and division of marital property must be referred to or retained by the family law division of the superior court.

When hearing and deciding matters for agreed parenting plans, the juvenile court may:

1. appoint a guardian ad litem to represent the child's interests;
2. appoint an attorney to represent the child's interests; or
3. interview the child in chambers under the same conditions as permitted in family court.

A parent who does not agree to the juvenile court deciding matters to enter or modify a parenting plan in order to dismiss the child's dependency case, may file a motion for transfer of the case to the family court. The juvenile court may grant the motion only if it finds the transfer of the case to the family court is in the child's best interests.

The filing fee for the entry or modification of a parenting plan must be waived for indigent parents whose parenting plan is being decided in the juvenile court as part of the dependency process.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The intent of this bill is to expedite dismissal of children's dependency cases when there is a viable option for a parent to care for the child and where there is also the need for some restrictions on parents who are subject to the dependency. The goal is to allow the dependency court to enter agreed parenting plans rather than forcing parents to go through a separate court process in family court where they don't have assistance of an attorney. The juvenile court currently can hear third-party custody orders when necessary to dismiss a dependency and implement the child's permanency plan but can not hear parenting plans agreed to by the child's parents.

This bill also will give older kids and their families more of a chance to be heard in court when the Department of Social and Health Services is deciding where to recommend a child be placed. The court might not agree with us, but we should be able to say what we believe is in our best interests, especially in matters as important as where we are going to live.

(Opposed) None.

**Persons Testifying:** Patrick Dowd, Office of Public Defense; and Cindy and Mariah Hofer, Relatives as Parents Partners.

**Persons Signed In To Testify But Not Testifying:** None.